

will encourage individuals with disabilities and their families to save money for their unique disability-related needs in Disability Savings Accounts. These accounts will provide a tax-advantaged mechanism for individuals with disabilities to save money.

The interest on these accounts, with a balance of up to \$250,000, will be tax free. Expenditures from the accounts for specific qualified services such as education, medical services, employment training and support, and transportation, will not be subject to income tax. The accounts will be easier to manage, and use than other existing savings mechanisms for individuals with disabilities. To be sure these accounts are available to low and moderate income earners, there will be a refundable matching tax credit of up to \$1000 for contributions. Account holders can even roll funds from college savings plans and special needs trusts for the same beneficiary into the Disability Savings Account without penalty. These accounts will supplement, not supplant, benefits provided by other, sources such as Medicaid, private insurance, and Supplemental Security Income, SSI, and the assets held within them will not be counted against eligibility for those programs.

In order to be eligible to have a Disability Savings Account, beneficiaries must be determined to be blind or disabled by the Social Security Administration or the Disability Determination Service of a state, and be under the age of 65. The accounts can be held and managed through a financial institution by the beneficiary, their spouse or family member, or a legal guardian.

I hope that my colleagues will see the benefit of this approach and join me in this effort. I urge them to cosponsor this legislation and work with me to give individuals with disabilities and their families the tools they need to live healthy independent lives.

Mr. President, I ask unanimous consent that the text of the bill and a letter of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disability Savings Act of 2008".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Disability is a natural part of the human experience. Individuals with disabilities have the right to live independently, to exert control and choice over their own lives, and to fully participate in and contribute to their communities through full integration and inclusion in the economic, political, social, cultural, and educational mainstream of American society.

(2) Americans with disabilities are more likely to live in poverty than those without disabilities. According to the World Institute on Disability, over one-third of adults with disabilities live in households with income of

\$15,000 or less compared to only 12 percent of those without disabilities. According to the 2005 American Community Survey, median annual earnings for individuals without a disability were \$25,000 compared with \$12,800 for those with a severe disability.

(3) Families often provide the primary financial assistance necessary for individuals with significant disabilities who cannot support themselves. Families supporting members with disabilities often experience substantial negative effects on the vocational and economic health of the family.

(4) Individuals with disabilities often incur significant additional costs related to services and supports necessary to maintain the health and independence needed to fully participate in society.

(5) Throughout the years policymakers have provided incentives to Americans to save money for purposes such as home ownership, education and retirement. Many of these benefits do not meet the savings needs of individuals with disabilities and their families.

(6) Encouraging individuals with disabilities and their families to save funds will allow them to achieve greater control, choice, participation in community, security, and independence in their lives.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life.

(2) To provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, the Medicaid program under title XIX of the Social Security Act, the supplemental security income program under title XVI of such Act, the beneficiary's employment, and other sources.

SEC. 4. DISABILITY SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended by adding at the end the following new part:

"PART IX—DISABILITY SAVINGS ENTITIES

"Sec. 530A. Disability savings accounts.

"SEC. 530A. DISABILITY SAVINGS ACCOUNTS.

"(a) DISABILITY SAVINGS ACCOUNT DEFINED.—For purposes of this section, the term 'disability savings account' means a trust created or organized in the United States by a qualified individual exclusively for the benefit of a qualified beneficiary, but only if the written governing instrument creating the trust meets the following requirements:

"(1) No contribution shall be accepted—

"(A) unless it is in cash, or

"(B) if such contribution would result in the total aggregate contributions to such account exceeding \$1,000,000.

"(2) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section or who has so demonstrated with respect to any individual retirement plan.

"(3) A qualified individual is designated for the purpose of administering requests for distributions from the trust.

"(4) No part of the trust assets will be invested in life insurance contracts.

"(5) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

"(6) Except as provided in subsection (c)(6), in the case that the qualified beneficiary

dies or ceases to be a qualified beneficiary, all amounts remaining in the trust up to an amount equal to the total medical assistance paid for the qualified beneficiary under any State Medicaid plan established under title XIX of the Social Security Act shall be distributed to each such State.

"(b) TAX TREATMENT OF INCOME.—

"(1) IN GENERAL.—A disability savings account which has a value of \$250,000 or less for any taxable year shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, a disability savings account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

"(2) TAXABLE ACCOUNTS.—Any disability savings account which is not exempt from tax under paragraph (1) shall be taxed in the same manner as a qualified disability trust (as defined in section 642(b)(2)(C)(ii)).

"(3) DETERMINATION OF VALUE.—The value of a disability savings account shall be deemed to be in excess of \$250,000 for a taxable year if the daily balance of such account (determined as of the close of business on any business day) exceeds \$250,000 for the majority of business days during such taxable year.

"(c) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Any distribution from a disability savings account shall be included in the gross income of the qualified beneficiary in the manner provided in section 72.

"(2) DISTRIBUTIONS FOR QUALIFIED SERVICES OR PRODUCTS.—

"(A) IN GENERAL.—No amount shall be included in gross income under paragraph (1) if such amount is distributed—

"(i) for a qualified service or product, and

"(ii) except as otherwise provided by the Secretary, by means of an electronic fund transfer to the person who provided the qualified service or product.

"(B) QUALIFIED SERVICE OR PRODUCT.—

"(i) IN GENERAL.—The term 'qualified service or product' means any service or product which is provided to a qualified beneficiary on account of such beneficiary's disability.

"(ii) CERTAIN SERVICES AND PRODUCTS INCLUDED.—Such term shall include preschool education, postsecondary education, tutoring, special education services, training, employment supports, personal assistance supports, community-based supports, respite care, clothing, assistive technology, home modifications, therapy, nutritional management, out-of-pocket medical, vision, or dental expenses, transportation services, vehicle purchases or modifications, insurance premiums, habilitation and rehabilitation services, funeral and burial expenses, and any other service or product consistent with the purposes of this section and allowed under regulations established by the Secretary, in consultation with the Secretary of Health and Human Services.

"(iii) PROHIBITED SERVICES AND PRODUCTS.—Such term shall not include any service or product paid for by a third-party payer, such as private insurance or a Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

"(C) DISALLOWANCE OF EXCLUDED AMOUNTS AS DEDUCTION, CREDIT, OR EXCLUSION.—No deduction, credit, or exclusion shall be allowed to the taxpayer under any other section of this chapter for any qualified service or product to the extent taken into account in determining the amount of exclusion under this paragraph.

"(3) EXCEPTION FOR DISTRIBUTIONS RETURNED BEFORE CERTAIN DATE.—Paragraph (1) shall not apply to any distribution made from a disability savings account during a taxable year on behalf of the qualified beneficiary if the qualified beneficiary makes a